

MATTHEW G. JACOBS (Bar No. 122066)  
matthew.jacobs@dlapiper.com  
ALEXANDER M. MEDINA (Bar No. 222015)  
alexander.medina@dlapiper.com  
DLA PIPER US LLP  
400 Capitol Mall, Suite 2400  
Sacramento, CA 95814-4428  
Tel: 916.930.3200  
Fax: 916.930.3201

Attorneys for Plaintiffs  
VIDEO GAMING TECHNOLOGIES, INC.,  
UNITED CEREBRAL PALSY OF GREATER  
SACRAMENTO, WIND YOUTH SERVICES,  
ROBERT FOSS, and JOAN SEBASTIANI

ADDITIONAL COUNSEL LISTED ON  
FOLLOWING PAGE

UNITED STATES DISTRICT COURT  
NORTHERN DISTRICT OF CALIFORNIA  
SAN FRANCISCO DIVISION

VIDEO GAMING TECHNOLOGIES,  
INC., dba VGT, Inc., a Tennessee  
Corporation; UNITED CEREBRAL  
PALSY OF GREATER SACRAMENTO,  
a California Non-Profit Corporation;  
WIND Youth Services, a California Non-  
Profit Corporation; ROBERT FOSS, an  
individual; JOAN SEBASTIANI, an  
individual,

Plaintiffs,

v.

BUREAU OF GAMBLING CONTROL, a  
law enforcement division of the California  
Department of Justice; MATHEW J.  
CAMPOY, in his official capacity as the  
Acting Chief of the Bureau of Gambling  
Control,

Defendants.

RECEIVED  
06 JUN -2 PM 1:39  
RICHARD L. MIERING  
CLERK, U.S. DISTRICT COURT  
NORTHERN DISTRICT OF CALIFORNIA

E-filing

EDL

CASE NO. **CV 08**

**2748**

[PROPOSED] TEMPORARY RESTRAINING  
ORDER AND ORDER TO SHOW CAUSE RE  
PRELIMINARY INJUNCTION

Date:  
Time:  
Dept.:  
Judge:

ADDITIONAL COUNSEL

GEORGE GIGOUNAS (Bar No. 209334)  
george.gigounas@dlapiper.com  
DEBORAH E. MCCRIMMON (Bar No. 229769)  
deborah.mccrimmon@dlapiper.com  
DLA PIPER US LLP  
153 Townsend Street, Suite 800  
San Francisco, CA 94107  
Tel: 415.836.2500  
Fax: 415.836.2501

RAVINDER MEHTA (Bar No. 113805)  
rmehta@capital-advocates.com  
CAPITOL ADVOCATES  
1215 K Street, 17th Floor  
Sacramento, CA 95814  
Tel: 916.486.1955  
Fax: 916.485.2509

1 Having reviewed and fully considered plaintiffs' *Ex Parte* Motion for Temporary  
2 Restraining Order and Order to Show Cause Regarding Preliminary Injunction, the accompanying  
3 memorandum of points and authorities, all declarations submitted in support thereof, and the  
4 complaint on file in this action, the Court finds that:

5 (1) Plaintiffs have a strong likelihood of success on the merits of their claims because  
6 it appears that (1) the electronic bingo aids at issue comply with California Penal Code section  
7 326.5 ("Section 326.5") because they provide paper bingo cards from which a winning pattern  
8 can be determined; (2) the Bureau of Gambling Control's ("Bureau's") interpretation of "card"  
9 under Section 326.5(o) to preclude the use of electronic cards discriminates against disabled  
10 individuals in violation of the federal Americans with Disabilities Act; (3) the Bureau's  
11 interpretation of "card" under Section 326.5(o) to prohibit electronic cards violates plaintiffs' due  
12 process rights; and (4) the other statutes cited in the Bureau's May 2008 cease-and-desist orders  
13 are facially inapplicable.

14 (2) The balance of hardships weighs in favor of plaintiffs. If injunctive relief is not  
15 granted and the Bureau seizes the electronic bingo aids at issue and shuts down bingo facilities  
16 using electronic bingo aids, plaintiffs will be irreparably harmed as follows: the charitable  
17 organization plaintiffs would suffer a severe reduction in revenue and a resulting decrease in their  
18 ability to deliver social services; plaintiff Video Gaming Technologies, Inc. ("VGT") would  
19 suffer a dramatic loss of income and the seizure of its property without due process; and the  
20 individual disabled plaintiffs would lose their freedom to engage in this form of entertainment on  
21 an equal footing with their non-disabled peers.

22 (3) No imminent harm will befall the Bureau or the citizens of California if injunctive  
23 relief is granted and the Bureau is not permitted to effectuate its interpretation of Section 326.5  
24 immediately.

25 (4) The public interest favors granting injunctive relief and maintaining the status quo  
26 to allow bingo facilities to continue to provide revenue to charitable organizations. It is also in  
27 the public interest to ensure that property rights are protected from government seizure without  
28 due process. It is further in the public interest to ensure that disabled persons have access to the

1 same services as non-disabled persons pending resolution of the merits of plaintiffs' case.

2 Accordingly, IT IS HEREBY ORDERED that a temporary restraining order is entered,  
 3 effective as of June \_\_, 2008, at \_\_: \_\_ m., restraining and enjoining defendants and any  
 4 other person and/or entity or agency acting in concert or participation with them (including, but  
 5 not limited to, the California Attorney General and any other division or bureau of the California  
 6 Department of Justice), from enforcing in any manner (including, but not limited to, seizing  
 7 electronic bingo aids, commencing criminal prosecutions, and halting the play of charitable  
 8 bingo) the cease-and-desist orders issued by the Bureau on Gilman Street Bingo in Berkeley  
 9 (served May 12, 2008), the Sacramento Bingo Center in Sacramento (served May 7, 2008), the  
 10 Mayhew Community Bingo Center in Sacramento (served May 8, 2008), the North Watt Bingo  
 11 Parlor in Sacramento (served May 8, 2008), and the Madison Mall Bingo Center in Sacramento  
 12 (served May 8, 2008). No bond is required.

13 IT IS FURTHER ORDERED that defendants shall appear before the Honorable  
 14 Judge \_\_\_\_, in Courtroom \_\_\_\_, of the United States District Court, Northern District  
 15 of California, located at \_\_\_\_, on \_\_\_\_, 2008, at \_\_: \_\_ m., or as soon  
 16 thereafter as the matter may be heard, and show cause why a preliminary injunction should not  
 17 issue during the pendency of this action restraining and enjoining defendants and any other  
 18 person and/or entity or agency acting in concert or participation with them (including, but not  
 19 limited to, the California Attorney General and any other division or bureau of the California  
 20 Department of Justice), from enforcing in any manner (including, but not limited to, seizing  
 21 electronic bingo aids, commencing criminal prosecutions, and halting the play of charitable  
 22 bingo) the cease-and-desist orders issued by the Bureau on Gilman Street Bingo in Berkeley  
 23 (served May 12, 2008), the Sacramento Bingo Center in Sacramento (served May 7, 2008), the  
 24 Mayhew Community Bingo Center in Sacramento (served May 8, 2008), the North Watt Bingo  
 25 Parlor in Sacramento (served May 8, 2008), and the Madison Mall Bingo Center in Sacramento  
 26 (served May 8, 2008).

27 This Order to Show Cause and supporting papers shall be served on defendants no later  
 28 than \_\_\_\_ days before the date set for hearing, and proof of service shall be filed no later than \_\_\_\_

1 court days before the hearing. Any response or opposition to this Order to Show Cause shall be  
2 filed and personally served on plaintiffs' counsel no later than \_\_\_\_ court days before the date set  
3 for hearing, and proof of service shall be filed no later than \_\_\_\_ court days before the hearing.  
4 Any reply brief shall be filed and personally served on defendants no later than \_\_\_\_ court days  
5 before the date set for hearing, and proof of service shall be filed no later than \_\_\_\_ court days  
6 before the hearing.

7 IT IS SO ORDERED.

8 Dated: June \_\_\_\_, 2008

9 Hon. UNITED STATES DISTRICT JUDGE